

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:11cv211

LUTHER S. METCALF,

Plaintiff,

vs.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

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ORDER OF REMAND

THIS MATTER is before the Court on the Defendant's Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. Section 405(g) [Doc. 15]. The Plaintiff consents to the motion.

Sentence Four of 42 U.S.C. §405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties here have moved for reversal of the decision of the Defendant and for remand for further administrative proceedings. Specifically, the parties seek remand for a new hearing.

Upon remand to the Commissioner, the Appeals Council shall remand this case to the administrative law judge (ALJ). The Appeals Council will instruct the ALJ to: (1) conduct a new hearing and issue a new decision; (2) address the issue of disability for the period prior to the established onset date of July 17, 2009 in the subsequent favorable decision dated December 2, 2011; (3) re-evaluate the medical evidence of record in its entirety; (4) evaluate the severity of the Plaintiff's mental and physical impairments and the maximum residual functional capacity which the Plaintiff can perform in light of such impairments; and (5) in the event that the record establishes significant limitations in the Plaintiff's ability to perform the mental and physical demands of his past relevant work, obtain supplemental evidence from a vocational expert. The Court finds remand is appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

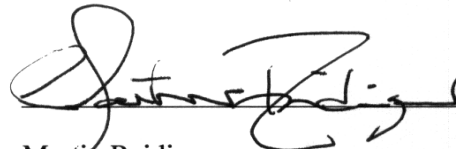
IT IS, THEREFORE, ORDERED that the Defendant's Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 15] is hereby **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is hereby **REMANDED**.

IT IS FURTHER ORDERED that upon remand, the Commissioner shall comply with the directives contained within this Order.

The Clerk of Court shall enter separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: March 5, 2012


Martin Reidinger
United States District Judge

